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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/766,133	01/19/2001	Jonathan E. Lowthert	BKA.0011US	9485
21906 7590 09/07/2011 TROP, PRUNER & HU, P.C. 1616 S. VOSS ROAD, SUITE 750 HOUSTON, TX 77057-2631				
EXAMINER				
RAMAN, USHA				
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

09/766,133

Applicant(s)

LOWTHER ET AL.

Examiner

USHA RAMAN

Art Unit

2424

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 5) ☒ Claim(s) 27-33, 37, 38 and 41-45 is/are pending in the application.
- 5a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 6) ☐ Claim(s) ____ is/are allowed.
- 7) ☒ Claim(s) 27-33, 37, 38 and 41-45 is/are rejected.
- 8) ☐ Claim(s) ____ is/are objected to.
- 9) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 13, 2011 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claim 27 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 27-30, 32, 41-44 are rejected under 35 U.S.C. 102(e) as being anticipated by Nejime et al. (US Pat. 7,272,843).

With regards to claim 27, Nejime discloses a system comprising:

A receiver (101) to receive a contiguous block of content data stream (fig. 3: a program, col. 2, lines 10-12, col. 5, lines 6-7) with an information segment (203) and a plurality (col. 5, lines 64-65, col. 6, lines 16-18) of advertisements (col. 3, lines 49-50), said information segment having at least one ad entry (301) (note that fig. 9, replaces Auxiliary Information ID 208 of fig. 3 with Auxiliary Information 301) having a field in the form of an interruption form specifier (310) to indicate a point based on the passage of time (col. 9, lines 5-7), within said contiguous block of content data stream to interrupt the play of said content data stream and to insert an advertisement in said content data stream for play prior to the resumption of the play of the content data stream (col. 10, lines 47-62);

A cache (106) coupled to the receiver to store said content data stream with said information segment (col. 5, line 30, wherein broadcast information comprises program and its corresponding info segment, 203), and the plurality of advertisements (col. 11, lines 37-40, lines 45-55); and

An interface (102) in said receiver to identify a content data stream location (col. 5, lines 31-35) and an advertisement out of plurality of advertisements (col. 5, lines 37-42), to insert in said location (col. 10, lines 47-62), said interface to identify, based on data from interruption point specifier, said location while said content data stream is still stored in said cache (i.e. content is still stored in cache during playback of media files as well as ads).

With regards to claim 28, Nejime further discloses wherein the interface utilizes a content identifier (204) to associate said information segment with said content data stream (col. 5, lines 61-62).

With regards to claim 29, Nejime further discloses wherein the interface to utilize an info segment (203) having a plurality of fields, one field comprising interruption point specifier (310) and another field comprising a resume indicator (311).

With regards to claim 30, Nejime further discloses wherein ad entry includes the plurality of fields (note that 203 comprises a plurality of fields, including auxiliary information 301, wherein auxiliary information further includes the fields 310 and 311), the interface using the data from fields to control the relationship between content data stream and said plurality of advertisements (col. 10, lines 47-62).

With regards to claim 32, Nejime further discloses wherein the system is a television receiver (receiver receives CATV signals, fig. 1).

With regards to claim 41, Nejime discloses a method comprising inserting an advertisement [0022] into a contiguous block of content data stream [0006] based on the passage of time (start time 310).

With regards to claim 42, Nejime further discloses the method of claim 41 including storing said content data stream [0037] and a plurality of advertisements in cache [0061] (note fig. 3 wherein a plurality of auxiliary information such as commercials can be associated with a program, wherein they can be stored).

With regards to claim 43, Nejime further discloses including, based on the passage of time, identifying a location to interrupt the play of content to insert an advertisement ([0057], advertising is inserted at point T1 into the video).

With regards to claim 44, Nejime further discloses including measuring the passage of time from the start of the play of said content data stream (advertisement start time 310 is given with the program start time taken as reference thereby reading on the passage of time [0051]).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nejime et al. (US Pat. 7,272,843) in view of Knepper (US PG Pub. 2001/0042249) and Schoff (US Pat. 6,240,555).

With regards to claim 31, Nejime discloses transmitting the information segment in the video signal (col. 6, lines 1-5). Nejime is silent on the cache storing an EPG having a program identifier and an associated info segment, said EPG to enable locating the info segment corresponding to a selected program.

Knepper discloses a method of sending the information segment (i.e. instruction set) comprising a list of ads to be associated with the content as a

separate file [0025] which is delivered at the same time the content is delivered [0026]. Transmitting information segment as a separate file allows inclusion of targeted ads based on taste and preferences of the user. Knepper also discloses that instruction set can be modified by the user [0083]. Knepper however also does not disclose the step of further storing a electronic program guide, the program guide having a program identifier and an associated info segment, the program guide enabling locating the info segment corresponding to the selected program.

Schoff discloses a method of associating a supplementary content with a program, wherein the program guide has a program identifier (storage pointer) and enables locating the supplemental data corresponding to a selected program. See fig. 3.

It would have been obvious to one of ordinary skill by modifying the system of Nejime in view of Knepper by transmitting the info segment associated with a program as a separate file thereby allowing the info segment to hold advertisements specifically targeted to the user. It would have been obvious to one of ordinary skill in the art to further modify the system in view of Schoff by using an EPG to locate information segment file associated with program identifier. The motivation is to enable the user to select a show or content for playback from an EPG and enable association of information segment for targeted advertisements.

7. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nejime et al. (US Pat. 7,272,843) in view of Augenbraun et al. (US PG Pub. 2002/0026642).

With regards to claim 33, Nejime is silent on wherein the system is connected to a presentation device through a wireless connection. Augenbraun however discloses a receiver system (set top box 14) that is coupled to a presentation device (monitor 20) through wireless connection [0022]. Accordingly it would have been obvious to one of ordinary skill in the art to couple the presentation device to the system through a wireless connection so reduce a clutter of wires.

8. Claim 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nejime et al. (US Pat. 7,272,843) in view of Harville (US Pat. 6,993,245).

With regards to claim 45, Nejime is silent on the step of including measuring the passage of time to the last advertisement played.

Harville discloses a method of determining placement of commercial breaks such that they are not too close to each other (col. 13, lines 21-31). Since too many commercial breaks can annoy a viewer, one of ordinary skill in the art would find it advantageous to incorporate this teaching by ensuring that too many commercials are not shown to the user.

Accordingly it would have been obvious to one of ordinary skill in the art to modify the system of Nejime by using teachings from Harville and measuring the passage of time to the last advertisement played so that commercial breaks are not too close to each other. Such a modified system allows for spacing the commercials to be shown to the user such that it can sustaining user's attention and interest.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to USHA RAMAN whose telephone number is (571)272-7380. The examiner can normally be reached on Mon-Wed, Fri: 5:00am-9:00am; Thu: 5:00am-7:00am and 12:00pm-2:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pankaj Kumar can be reached on (571) 272-3011. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Usha Raman/
/Pankaj Kumar/
Supervisory Patent Examiner, Art Unit 2424